

IV. REMARKS

The Examiner is requested to enter the amendment and reconsider the application in view of the amendment and the remarks set forth below. It is believed that no new matter has been added.

In the Office Action, at Para. 3, an objection has been made to claim 43 for stating "a a". In response, the claim has been amended to remove the objection.

In the Office Action, at Paras. 4-6, claims 1-20, 9-13, 24-42, 32-35, 45 have been rejected pursuant to 35 U.S.C. Sec. 112 for reasons set forth in the Office Action. The Office Action suggests reference to the date of filing. In response, Applicant has amended the claims to carry out the suggestion, and Applicant appreciates the guidance.

In the Office Action, at Para. 7, claim 1 has been rejected pursuant to 35 U.S.C. Sec. 112 for reasons set forth in the Office Action. In response, Applicant has amended the claims to carry out the suggestion, and Applicant appreciates the guidance set forth in Para. 7.

In the Office Action, at Para. 8, claims 14 and 36 have been rejected pursuant to 35 U.S.C. Sec. 112 for reasons set forth in the Office Action. In response, Applicant has amended the claims to carry out the suggestion, and Applicant appreciates the guidance set forth in Para. 8.

In the Office Action, at Paras. 9-12, claims 1-23 and 46-48 have been rejected pursuant to 35 U.S.C. Sec. 101 for reasons set forth in the Office Action. In response the rejection is respectfully traversed.

The Office Action does not set out a prima facie case of statutory unpatentable subject matter. The rejection is premised on *Bilski* and the PTO Guidance – *Diehr*, *Flook*, *Benson*, and *Deener* do not require that a process must be (1) tied to a machine or (2) transform the underlying subject matter to a different state or thing. The U.S. Supreme Court has accepted

the appeal of this decision, drawing the premise of the PTO's view and this rejection into doubt.

To advance prosecution until the Supreme Court decides *Bilski*, Applicant has amended the rejected claims for bare-bones compliance with PTO policy, dubious as it clearly is (the U.S. Supreme Court does not take appeals to affirm them). However, Applicant explicitly reserves the right to amend the claims when the appeal has been decided, as well as to pursue the claims in continuation practice, without prejudice.

Other amendments are for purposes unrelated to the rejection, namely to simplify the claims. With respect to the present application, the Applicant hereby rescinds any disclaimer of claim scope made in the parent application or any predecessor or related application. The Examiner is advised that any previous disclaimer, if any, and the prior art that it was made to avoid, may need to be revisited. Nor should a disclaimer, if any, in the present application be read back into any predecessor or related application.

III. Conclusion

APPLICANT CLAIMS SMALL ENTITY STATUS. The Commissioner is hereby authorized to charge any fees associated with the above-identified patent application or credit any overcharges to Deposit Account No. 50-0235, and if any extension of time is needed to reply to said office action, this shall be deemed a petition therefore. The Examiner is invited to contact the undersigned at the telephone number set out below if it can in any way expedite or facilitate issuance of a patent on the application.

The application is believed to be in condition for allowance, and favorable action is respectfully requested. Please direct all communication to the undersigned at the address given below.

Respectfully submitted,



Date: June 22, 2009

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